Justice Department Counter-Attacks in Defense of Informers, Page 4

I. F. Stone's Weekly

VOL. II, NUMBER 28 AUGUST 2, 1954 WASHINGTON, D. C. 15 CENTS

What The Atomic Filibuster Was All About

I

The Atomic Energy Bill and Foreign Policy

1. In its foreign policy aspects the new atomic energy bill is a fraud. Its main purpose is popularly supposed to lie in the President's proposal last December of an international atomic pool for non-military purposes. Actually the Republicans in Congress have by this bill tied the President's hands and made the creation of such a pool more difficult.

In his message last February on revision of the atomic energy law, General Eisenhower said "Consideration of additional legislation which may be need to implement that [pool] proposal should await the development of areas of agreement as a result of our discussions with other nations." Instead of waiting for "the development of areas of agreement," the Republican leadership has rushed in sharply to restrict the President's freedom to negotiate.

This effort to restrict the President's treaty making powers is, I believe, unprecedented and unconstitutional. The Senate may modify or reject a treaty. Congress itself cannot in advance tell the President how he must negotiate. This it tries to do by a neat bit of flim-flam. The bill carries a section (124) called "International Atomic Pool." This authorizes the President "to enter into an international agreement with a group of nations providing for international cooperation in the non-military aspects of atomic energy . . ."

A Triple Joker

But there is a triple joker hidden here. In the first place the President needs no special authority to make international agreements. This provision, while giving him a power he already possesses, in fact restricts the operation of that power. It does this in two ways. Section 11 k defines international agreement restrictively to mean only an agreement approved by Congress or a treaty (subject to Senate approval) and adds "but does not include any agreement for cooperation." i.e. presumably any other Presidential agreement.

In addition Section 124 says, "Provided, however, that the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 123." This is the most important joker of all. For under section 123 only bilateral agreements are permitted. The President under this section is not permitted to negotiate with a "group of nations." He can only negotiate with them one by one.

Just as in dealings between employer and employe, bilateral agreements reduce the bargaining power of the weaker side. The Republicans in Congress are as opposed to collective bargaining in international as in labor relations. This section would prevent the President from dealing with the United Nations, or with such a group of West European countries as are now building its own nuclear research center in Switzerland or even with NATO. Each nation must step into our front office alone and bargain alone to obtain atomic information, whether civilian or military. The net result would not be an international pool but a series of bilateral agreements.

2. In the civilian, as in the military field, this bill reflects the continued hangover of the great American delusion that somehow we alone have the secret of atomic energy and that other nations will and must accept our terms if they are to share it. The bill gives very little yet makes it possible to demand much in return.

Tells Little to "Foreigners"

As Cole (R. N.Y.), chairman of the Joint Committee on Atomic Energy told the House July 23 (Con. Rec. p. 11022) "when you hear talk that this bill proposes to give vital information away to the peoples of the world, to foreigners . . . just tell those people who talk that way to look at the record. The bill does no such thing. It scarcely enlarges the fiield of the exchange of information beyond what is presently authorized by law."

The present law already allows the exchange of information on the refining of source material, on reactor development, on the production of special nuclear material and on research and development. Obviously this is not enough to satisfy other nations, or countries like Belgium would not be threatening to cut off uranium supplies unless given more information. The new bill only adds two new categories—data with respect to health and safety, and data on industrial and other applications.

To get this information, a foreign country must accept a whole network of restrictions, including a guaranty that none of the material or information would go into the research or development of atomic weapons, that none would be transferred to unauthorized persons and "a guaranty by the cooperating party that security standards and safeguards as set forth in the agreement for cooperation will be maintained . . ."

Troublesome Guaranties

Such guaranties may entail more trouble than the information is worth. How guarantee, for example, that any material or information from the U.S. will not be used for atomic weapons? How keep such things in airtight compartments? The problem would be simplified if recipient countries allowed us to make atomic weapons while they concentrated on peacetime uses. But no important countries will accept a permanent status of military inferiority. And how assure such a guaranty and the guaranty against passing information to "unauthorized persons" without considerable interference in their domestic affairs by the United States?

This question is raised even more strongly by the provision on security. If their security standards must satisfy the

(*Continued on next page*)

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Atomic Energy Commission and/or the Defense Department (as the bill provides), the American witch hunt may be exported. Will every Belgian who was anti-Franco be proscribed and every Frenchman who is anti-capitalist become suspect?

3. In the military, as in the civilian sphere, the unspoken assumption of the bill is that we would be the givers and have nothing to gain by exchange. Yet on the civilian side there is a real fear here in Washington not only that the Russians are ahead of us on civilian uses but that some West European countries will soon be, too. We would like to break up the West European nuclear research pool and prevent the formation of similar regional pools, substituting a kind of atomic Marshall Plan in which we would dominate the atomic scene in return for our largesse, though the largesse in this case is not very large.

The Atom Trigger Remains a Secret

On the military side, for example, the bill would give even less than on the civilian. The exchange of information on weapons is limited to "external characteristics," and excludes internal construction and trigger mechanisms. In their able and exhaustive minority report with the bill (Rpt. No. 2181) Congressmen Holifield (*D. Cal.*) and Price (*D. Ill.*) say "it is obvious that we do not intend to deliver any of these weapons to any military ally for their own use, as knowledge of the internal working would be necessary for such use or adjustment in case the weapon failed to 'work' just prior to release."

"Therefore," Holifield and Price conclude of these provisions, "we must acknowledge that the bill does not implement the use of our atomic or hydrogen weapons by our allies on behalf of the defense of the free world. It does not make it possible to include such armament in the common arsenal of the North Atlantic Treaty Organization forces, except as they are retained in our sole custody."

The training envisaged by the bill for allied forces, as the two dissenters pointed out, would be "in attaching or installing such weapons in delivery vehicles or devices." A kind of international Jim Crow system is foreshadowed, in which allied forces would be considered good enough for transport and labor service in atomic warfare. We would hold the weapons and we alone would know how to shoot them. This is not how to win an international popularity contest.

"Those who fear vital disclosure of security information," Holifield and Price wrote, "need have but little fear. Those who hope for wider dissemination of nuclear information have but little grounds for hope."

II

The Atomic Energy Bill And Domestic Policy

In its domestic aspects, the new atomic energy bill is a steal, in sober fact probably the greatest steal in the history of the American people. A few simple observations will show how shrewdly it has been drafted to subordinate public interest to private.

1. "It is common practice," as Jackson (*D., Wash.*) told a sleepy Senate early in the morning of July 22, "for large industries requiring substantial blocks of power to build their own generating stations." The Atomic Energy Commission is the world's largest single consumer of electric power; it uses more than the New England States combined; its consumption of power may soon reach 8 to 10 percent of the nation's total, with an outlay of from 150 to 200 million dollars a year. Yet the bill, as originally drafted and as passed by the House, forbids the Atomic Energy Commission to provide for its own power needs from atomic energy!

Power Now Going to Waste

A substantial portion of the AEC's needs could be met from the heat which today goes to waste in nuclear fission. Such production would give the AEC the same kind of "birchrod and yardstick" which the TVA provides in dealing with hydro-electric power. Section 7 (d) of the present Act, the McMahon Act, provided that the Commission could use such energy and sell the surplus "to public or private utilities." The new bill, as the majority report said in submitting it to Congress, "does not permit the Commission to enter into the power-producing business."

2. If the government is worried about falling behind in the race for peacetime atomic power, it has chosen a strange way to get ahead. The technical capacity of private industry is important in that race, but nothing could be more dangerous than to give the great electrical companies control of a competing energy source which might make much of their present investment obsolete. Yet this is precisely what the new bill will do if in conference committee the Administration succeeds in knocking out the unwelcome public power amendment by Johnson (*D., Col.*) which the Senate attached to it.

In their minority report, Congressmen Holifield and Price argued that just as the Atomic Energy Commission now has a statutory Division of Military Application, and a Military Liaison Committee, so it should have a statutory Division of Civilian Power Application, with an Electric Power Liaison Committee.

Just as the Military Liaison Committee facilitates cooperation between the AEC and the armed services, so the Electric Power Liaison Committee would facilitate cooperation between the AEC and those Federal agencies like the Federal Power Commission, the Rural Electrification Administration, the TVA, the Bureau of Reclamation and the Corps of Engineers which are concerned with power development. But amendments for these purposes were voted down in committee and on the floor. The private power interests are to rule atomic energy undisturbed.

A Few Big Companies Have the Inside Track

3. In the absence of public competition, it becomes all the more important to avoid monopoly, otherwise the appeal to private enterprise becomes a farce. At present a handful of great companies which have been acting as contractors for the AEC have the inside track.

The present act by Section 7 (c) gives the Commission affirmative responsibility, in consultation with the Attorney General, to refuse licenses or to attach special conditions for the avoidance of monopoly. The new bill omits this provision and substitutes another which says that the Commission "may" suspend or revoke a license if a licensee has been found guilty of violating the anti-trust laws. Considering the fact that electric companies are more or less natural monopolies and that anti-trust proceedings are lengthy and cumbersome, this substitution invites monopoly abuses.

4. The same weakening of safeguards against monopoly is apparent in the related sections on patents. The President himself in his message last February said that until more companies entered the atomic field "considerations of fairness require some mechanism to assure that the limited number of companies, which as Government contractors now have access to the program, cannot build a patent monopoly which would exclude others desiring to enter the field."

The bill as reported provided for compulsory licensing of non-military patents during the next five years but under such cumbersome terms that as the Holifield-Price minority report said "the patent attorneys may derive more satisfaction" from them "than the would-be user of the invention." Chairman Cole objected even to these terms. "Compulsory licensing," he said in a dissent with Van Zandt (*R., Penna.*), "is not creeping socialism; it is socialism run rampant."

The Giveaway of All Giveaways

In the House on July 23, Cole moved a substitute amendment to eliminate any kind of compulsory licensing. "This

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

is the giveaway of all giveaways," Holifield protested. "This not only denies the government the right to participate in the production of power with the substance owned by the taxpayers, but this gives the right to a few big corporations to come in and put patent rights on large programs owned by the people and exclude other private business men from using their patents." The House nevertheless passed the Cole amendment, 137 to 113. Its fate is up to the conference committee.

5. This bill not only hands over the fruits of a 12 billion dollar public investment to the private power companies but under conditions which give them a hidden subsidy.

This is how it works. Power is produced in the course of making nuclear material which is principally of use in weapons. The problem is how to dispose of this surplus nuclear material left over after power is produced. The problem is solved by declaring this material the exclusive property of the government (no one else wants it at the moment in any significant quantity).

Private Enterprise de Luxe

The government in turn guarantees the private operator a "fair price" for all he produces. The fair price is to be uniform so that, as Holifield and Price noted, "the highest cost and least efficient producer will set the pace on price schedules." At the same time the government is thus obligated to go on paying for this stuff even if mounting surpluses should reduce its value "to virtually nothing." And there is nothing in the bill which would prevent the private operator from thus writing off his costs at the expense of the government. This is indeed private enterprise de luxe, cushioned against any real risk.

6. Despite all this, in the sale of the power produced, these private companies will be subject to none of the safeguards so painfully won for electricity consumers over the past half century. The system of accounting safeguards, and of preferences for public bodies and cooperatives, to be found in the Federal Power Act and in the Flood Control Act of 1944 are wholly absent from the bill as passed by the House, the version favored by the Republican high command.

The bill, as the minority report protested, "is barren of any recognition of the public interest in securing electric energy from this new resource at the lowest possible rate." The Federal Power Commission's advice was brushed aside. If the Republicans have their way in conference committee, the REA and the municipal power systems of the West will not have the same preference in buying atomic power that they have in hydroelectric power. This is a Grab with a capital G.

Labor and the AEC

7. A minor point at the moment may loom larger with the years. Serious labor problems have arisen in connection with atomic plants. "Chronic discontent and frequent strife," as Holifield and Price noted, have marked their operations. They suggested and with Congressman Shelley (*D., Cal.*) offered from the floor an amendment which would have established a labor management committee in the AEC to ease problems of labor relations and labor dislocation.

This would also serve to meet a complaint voiced at the hearings on the bill by the A. F. of L. representative. He wanted to know why in choosing the personnel of the AEC, "corporation lawyers, investment bankers, government bureaucrats would seem to be blessed in some mysterious way with a genius for administering trade union affairs denied to trade union officials and leaders." The AEC is chastely upper class, and labor unions feel very much on sufference in their dealings with it. The labor amendment was, however, voted down.

III

The Outlook: Remember Muscle Shoals

In the next 25 years the consumption of power in this country is expected to triple. A pound of uranium costing about $20 contains as much energy as 1,500 tons of coal; at $8 a ton, this is $12,000. Installed kilowatt capacity for uranium by present production means are already less than double those of a coal plant. We may be on the verge of a second industrial revolution. This bill would give control of it to the same private power interests who fought TVA and the great Western hydroelectric projects. This is the backdrop against which Morse and the liberal Democrats staged their filibuster in the Senate.

The fight may flare up again if in conference committee the Republican leadership seeks to eliminate those few hard-won improvements like the Johnson amendment which were added in the Senate. But even the Johnson amendment, which would enable a progressive-minded AEC to establish a nationwide chain of atomic TVA's, would be a dead letter in the hands of the present Atomic Energy Commission. There the chairman, Lewis Strauss, in virtue of his dual capacity as presidential atomic adviser and AEC head, has shown his determination to make the Commission an arm of the power trust, as he did in the Dixon-Yates contract which created so much uproar during the debate, and threatens to undercut TVA and power power.

Is McCarran, Too, a Muscovite?

There is involved here a greater steal by far than tidelands. Its appeal to the voting public in the power-hungry regions of the West and the TVA-fertilized regions of the South may be seen by the fact that McCarran and Mundt joined George, Russell, Byrd and Stennis in voting for the Johnson amendment. What Dewey earlier this year called "the Moscow concept" of public power seems to have an appeal far beyond the Left. Every region which has tasted its benefits becomes its advocate, irrespective of party and right-left divisions.

Remember Muscle Shoals. The victorious Republicans after World War I shut off its potential for public power. Ultimately 12 years later, this was one of the issues on which FDR won election. Under a leadership quite different from the nerveless Lyndon Johnson, the atomic energy steal is an issue on which the Democrats could win their way back to power. If only they had a man with Morse's energy and fighting capacity to lead them . . . He in the Senate and Holifield in the House deserve applause for the hard fight they have just led—and will some day win—in the public interest.

Dirge to a Delinquent Subscriber

If you are one of those delinquent few who have not yet renewed, we offer a morbid thought—if most of our subscribers were like *you*, the *Weekly* would have passed out of existence months ago. As it is, the *Weekly* flourishes and looks forward to its third year of publication with confidence. Take up your pen and turn to the coupon on the next page and send us your renewal *now*. We hate to lose a reader. We want to reach more people, not less. We are growing steadily, even in the dog days. You helped to get us started. Keep us growing with your renewal, and you can ease that guilty feeling for only $4 more by adding a subscription for a friend.

—I. F. STONE.

P.S. Why not a gift subscription for your minister, local editor, town library or Congressman?

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

"Suppressing" What Blackstone Really Said On The Subject

The Justice Dept. Sets Out to Make Informing Respectable

A new campaign to make informing respectable opened July 23 with a little noticed speech by Assistant Attorney General Warren Olney III. He spoke on "The Use of Former Communists as Witnesses in Federal Trials" before the Michigan Association of Prosecuting Attorneys at Mackinac Island.

Mr. Olney said the Department "has been the target recently for an unprecedented barrage of abuse, emanating mostly from certain newspaper columnists . . ." He complained that the use of informers had been denounced as "a sharp departure from American tradition of law." He proceeded to make it appear that the use of informers was an ancient and honorable, almost venerable, institution.

The Assistant Attorney General said "Law enforcement officers have made use of informers from early times. Their value in ferreting out crime was recognized in the ancient practice of English medieval law known as approvement." A man accused of treason or felony might confess and obtain a pardon by turning witness against his accomplices. "If the accused were proved guilty," Mr. Olney went on, "the approver was entitled to his pardon. On the other hand, if the accused were acquitted, the approver was hanged."

A footnote at this point in the mimeographed copy of the speech cites *4 Blackstone Commentaries 30* as its authority. But Mr. Olney did not tell his listeners that Blackstone also said that the practice of approvement had long been abandoned because it created the same kind of abuses as the current crop of political informers.

What Blackstone Actually Said

The Assistant Attorney General did not quote Blackstone's remark that "in fact, it [approvement] has long been disused, for much mischief arose to good men, by false and malicious accusations thus made."

In Holdsworth's history of English law (Vol. III, p. 609) it is said that approvement was "open to obvious abuses" and did not survive the medieval period. Pollock and Maitland are cited as authorities for the fact that even in the 13th century a man of good repute in his own community did not have to answer the accusations of an *approver.*

Holdsworth also quotes Hale's venerable *Pleas to the Crown,* as saying (ii. 226) of approvement pretty much what the New York Times and the Alsop brothers have been saying of Brownell's informers, "The truth is, that more mischief hath come to good men of these kind of approvements by felon accusations of desperate villains, than benefit to the public by the discovery and conviction of real offenders."

There is dramatic propriety in this appeal by the Department of Justice to the abandoned precedents of a barbarous age. The Attorney General's campaign to compel testimony from witnesses is also aimed at one of the earliest barriers erected by modern English law against medieval inquisition and denunciation. The attack on the Fifth amendment and the defense of informers spring from the same soil.

Confusing Perjury with Patriotism

The evidence in a series of recent loyalty and deportation cases have caught some of the Justice Department's best known informers in what a *New York Times* editorial of July 8 called "direct contradictions . . . that smell strongly of perjury." *The New York Times* said that if the Department "feels it essential to use informers in the conduct of its anti-Communist prosecutions . . . it has the unmistakable duty to follow up relentlessly any indication that they may not be telling the truth."

This, the crucial question, Mr. Olney passed over in silence. Instead he dwelt oratorically on the sacrifices of men "whom certain columnists have had the gall to call 'stool pigeons'." The fact is, he went on righteously, "ever since the time of Nathan Hale . . . the American people have felt only gratitude and admiration" for such men.

This effort to equate the Department's stable of ex-Communists with a great revolutionary war hero is inept. If Nathan Hale had brought back as much misinformation, and done as much damage to our own side as some of these prize specimens, he would never have been hung by the British. *We* would have shot him.

Why Not Let Us Send a Sample Copy to a Friend?

I. F. Stone's Weekly, 301 E. Capitol, Wash. 3, D. C.

Please renew (or enter) my sub for the enclosed $5:

Name_____

Street_____

City_____ **Zone**_____ **State**_____

Enter this gift sub for $4 more (money enclosed):

(To) Name_____

Street_____

City_____ **Zone**_____ **State**_____

8-2-54

I. F. Stone's Weekly
Room 205
301 E. Capitol St., S.E.
Washington 3, D. C.

NEWSPAPER

Entered as
Second Class Mail
Matter
Washington, D. C.
Post Office

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED